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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

# EL SALVADOR

V. 83-63628 (EX)

The Government of El Salvador, as a State Party to the Convention, and in compliance with the provisions of article 18 of the Convention, wishes to present to the Secretary-General of the United Nations this report on the legislative, judicial, administrative or other measures adopted in relation with the provisions of articles 2 to 16 of the Convention.

Article 2 of the Convention

(a) In Salvadorian constitutional law there is what is called "The System of Constitutional Rights"; in the first article of the relevant Title it is provided that:

Article 150. "All men are equal before the law. No restrictions based on differences of nationality, race, sex or religion may be established for the enjoyment of civil rights."

"No hereditary offices or privileges are recognized."

By raising this rule to constitutional status, the maximum protection is given to the principle of equality, since, under the Salvadorian system, the Constitution is the supreme law of the State and prevails over all other laws.

In practice, this principle is not only embodied in the Constitution but is also included in all secondary legislation in effect in our country.

(b) In our legislation there are no measures that explicitly prohibit discrimination against women. However, from article 150, to which we have referred above, it is clear that discrimination on grounds of sex is prohibited.

Article 25 of the Civil Code defines the following concepts: "The words man, person, child, adult and other similar words, which in their general sense are applied to individuals of the human species, without distinction of sex, shall be understood to include both sexes in the provisions of laws, unless the provision is by its nature manifestly limited to one sex only.

On the other hand, the words woman, girl, widow and other similar words that designate the female sex shall not be applied to the other sex unless the law explicitly extends them to cover that sex."

(c) In Salvadorian legislation there are no specific sanctions in line with the provisions of this subparagraph to cover cases in which one of the rights conferred specifically on women is violated, since legal equality is a constitutional rule.

When a right is violated, a woman has all the remedies that the law recognizes for individuals in general.

(c-d) In our country, the authorities and public and private institutions make no distinction or discrimination based on the fact of a woman's sex with regard to the enjoyment of the rights and privileges granted by the law.

(f) As has already been pointed out, legal equality being the general rule, no laws have been passed exclusively for women, but the law is applicable to all.

If a woman believes that an arbitrary act has been committed against her person or against any of the rights inherent in her person, she may have recourse to the remedies that the law has established in such cases, that is to say, apply to the courts or request administrative remedies, according to the circumstances.

(g) With regard to this subparagraph, it is necessary to state that in the penal sphere there are indeed some provisions which, if not discriminatory, at least establish different treatment for men and women, the latter being treated more strictly than men. A clear example of the above is the text of article 265 on adultery, which establishes:

Article 265. "Six months to two years of imprisonment shall be imposed on:

1. A married woman who has sexual intercourse with a man who is not her husband, and on a man who has sexual intercourse with her, knowing that she is married.

2. A married man who has a concubine and shows contempt for his spouse or for morals or fails to fulfil his obligations to assist his family, and on the concubine.

This is one instance under Salvadorian penal law of discriminatory treatment against women. It should be pointed out that there are other types of offences covered by the Penal Code in which the offender can only be a woman, but this does not constitute discriminatory treatment, in view of the very nature of the offence. Such are the offences of abortion, article 161; homicide, with extenuating circumstances, article 155; false allegation of pregnancy or birth, article 247; abandonment, especially if there are extenuating circumstances, article 178 (Annex I).

Article 3 of the Convention

The Government of El Salvador, being aware that population growth and the paucity of its resources constitute a very serious problem, approved in the Council of Ministers on 30 October 1974 a document on a "Comprehensive Population Policy"; one of the specific objectives stressed is "To increase the participation of women in the development process, to raise their socio-cultural status and contribute towards consolidation of the family group. Through the comprehensive population policy, the aim is to integrate women in the general activities implied by development and to bring about an improvement in their social, economic and cultural status". The same document states that the creation of greater employment opportunities for women, the elimination of socio-cultural and wage discrimination constitute areas in which a solution must be found as quickly as possible.

Along the same lines, 1975 was declared as International Women's Year in El Salvador and various activities intended to promote the cause of women were carried out in that year.

For several years, there has been a Co-operation Committee for IACW in El Salvador in the framework of the Inter-American Commission of Women; one of the principal objectives of the Co-operation Committee is to promote the participation and advancement of women in El Salvador.

Article 4 of the Convention

1. No temporary measures aimed at accelerating the achievement of equality between men and women have been adopted recently, since for a number of decades, the principle of non-discrimination on grounds of sex has prevailed in our Constitution.

2. In fact, our labour law establishes certain privileges or guarantees for pregnant women, so that a pregnant woman enjoys security of employment from the beginning of her pregnancy until the end of the post-natal period of leave.

Art. 183 of the Political Constitution provides that:

"Working women shall be entitled to paid leave before and after confinement and to retention of employment."

Specifically, this question is regulated more explicitly in articles 110 to 113 of the Labour Code:

"Work performed by women:

Article 110. Employers are forbidden to assign pregnant women to work that requires physical effort incompatible with their condition.

Such work is presumed to be incompatible with the condition of pregnancy after the fourth month of pregnancy. (1)

Article 111. The condition of pregnancy is full justification for transferring a woman to a different post in the same establishment when her normal work consists in dealing directly with the public. Such transfer may be made by order of the employer or at the request of the worker concerned.

Article 112. After the end of her post-natal leave, a woman worker is entitled to return to the post that she filled before her pregnancy.

Article 113. As soon as pregnancy begins and until the end of post-natal leave , de facto dismissal or dismissal for previous express cause shall not lead to the termination of a female worker's contract unless the cause of such dismissal predates the pregnancy; however, even in the latter case, dismissal shall not take effect until immediately after the end of the above-mentioned period of leave."

However, in no way can these measures be considered discriminatory.

Article 5 of the Convention

(a) El Salvador, being aware that it is necessary to change socio-cultural patterns in the population in order to eliminate prejudice regarding the superiority or inferiority of the sexes, provides in the previously mentioned document "Comprehensive Population Policy":

"That the need therefore arises to establish mechanisms for the creation of opportunities for socio-cultural advancement that would promote a rise in the educational level of women.

Every day women acquire greater responsibility at the executive and decision-making levels in activities within the different strata of society.

In our country we find attitudes and behaviour on the part of the majority of the population that reflect traditional cultural patterns. One

effect of the earlier situation is irresponsible paternity, which obliges the woman to care for the household and prevents her from enjoying the fruits of progress."

(b) For the purpose of providing family education there are within the Office of the Attorney for the Poor assistance programmes for women; similarly, the "Women's Office" operates within that institution, one of its main functions being to direct and channel assistance to women in their duties as mothers. Owing to our country's present situation, the phenomenon of the voluntary surrender of children for adoption has emerged in recent years, so that the Attorney's Office is deeply concerned and is trying as far as possible to arouse awareness among the mothers in question.

Family counselling programmes have been set up and are directed towards families in marginal areas with the aim of emphasizing the responsibility of parents in the education of their children.

The Government of El Salvador, being aware of the importance of the family nucleus in the upbringing of children, and in the inter-American context, as a State member of the Inter-American Commission of Women and in support of a resolution of that body, decreed 1983 as "Inter-American Women's Year"; the IACW Co-operation Committee in El Salvador has carried out several activities such as holding seminars on the family that are intended to highlight the obligations and responsibilities of parents within the family.

Article 6 of the Convention

In Salvadorian legislation, prostitution is not defined as a separate offence per se, but special cases in which the exploitation of prostitution is punished are indeed regulated under the Penal Code, article 210 pn providing that:

"Any person who derives his maintenance even partially from a person who exercises prostitution, exploiting the proceeds of this profession, shall be punished by imprisonment for one to three years."

Similarly, article 209 of the Penal Code defines an offence, with the aim of protecting women.

Article 209. Aiding and abetting prostitution.

"Any person who engages openly or covertly in supporting, administering or controlling a brothel or habitually engages in facilitating the

prostitution of women under the age of 16 shall be punished with imprisonment for one to three years." There is also an article in the Penal Code that punishes rape of a prostitute.

Article 196. "The rape of a women who engages in prostitution shall be punished with imprisonment for three months to two years."

PART II

Article 7 of the Convention

In El Salvador women now enjoy the same civil and political rights as men, as is established by article 23 of the Political Constitution, which provides that:

"All Salvadorians above the age of 18 are citizens, without distinction of sex."

Article 24. "Suffrage is a right and duty of citizens, except in those cases specified in this Constitution.

The following are citizens' rights: To associate with one another to constitute political parties in accordance with the law and to join parties already constituted; to apply for public office according to their abilities, and the other rights recognized by the laws.

The following are citizens' duties: To comply with the Constitution of the Republic and to ensure that it is complied with and to serve the State according to the laws."

However, this was not always the case and it was not until 1950 that women's status was equated with that of men.

When we speak of equality, we are referring to the fact that, throughout the history of El Salvador, women have gradually been acquiring and achieving legal equality; for instance, female suffrage was dealt with for the first time in 1939, when it was stated that: "The exercise of the right of suffrage by women shall be regulated in electoral law."

The acquisition of this right was something of a paradox, since during that period not even men were able to vote, because El Salvador was under the dictatorship of General Maximiliano Hernández Martínez, which lasted 13 years, during which period elections were not held every five years, as ordered by law.

At that time, the qualifications authorizing a woman to vote were as follows:

"If the person who wishes to be authorized is of the female sex, she must produce not only her identity documents but also the following: if she is married, proof of her marital status by means of the corresponding marriage certificate; she must also be over 25 years of age; if she is single, she must be over 30 years of age, and in both cases must have at least completed primary education. These facts must be proved by documentary evidence." "Persons of the female sex with any professional qualification can be authorized on production of their certificates and identity documents and by proving that they have reached the age of majority."

General Hernández Martínez was overthrown by Salvador Castaneda Castro, who repealed the Constitution of 1939; the Constitution of 1886 was adopted, in which women have no right to vote. It was also decreed that the electoral law of that year was valid.

However, it was established that "this law shall be amended, especially to regulate women's right of suffrage".

Thus in 1946 the electoral law of 1886 was amended, establishing that:

"If the person requesting authorization should be of the female sex, she must not only present her identity documents but also prove that she is over 25 years of age, by producing certification of the registration of her birth, and have attended at least the third grade of primary school, by producing a certificate of her studies or the additional evidence established under the educational regulations. However, a person of the female sex with any professional qualifications can be authorized on presentation of her certificate and identity documents, if she shows by producing certification of the registration of her birth that she is over 21 years of age.

All the above concerns the active right of suffrage; however, the possibility of standing for election to public office has not been mentioned in any of the constitutions that have existed throughout the history of El Salvador, but it is to be assumed that, during this entire development process, this right has been denied to women, as is shown by simply quoting some parts of earlier constitutions.

"Only the following persons shall be eligible for the office of Member of the Assembly at the next Constituent Assembly and for the office of President of the Republic:

Members of the Assembly:

Salvadorians by birth of the male sex who were born or are domiciled in the department in which the election is held."

"For the President of the Republic:

Salvadorians by birth of the male sex."

This situation persisted until 1950, in which year a new constitution came into force and the legal equality of men and women was established clearly, it being declared that:

"All Salvadorians above the age of 18, without distinction of sex, are citizens" and citizen's rights were defined as: "To constitute political parties, join parties already constituted and to apply for public office."

The drafting committee for this Constitution, being aware of the importance of including an article such as the foregoing, stated: "The Constitution places on record that by granting women full citizenship on equal terms with men, it believes that it is doing justice to valiant Salvadorian women, in line, moreover, with the more advanced trends of contemporary democratic doctrine."

At present, women play a very important role in the public life of the country, since women hold many public offices, for instance as Members of the Constituent Assembly, mayoresses, judges and senior public administration officials; at the moment, the Attorney for the Poor is a woman.

(c) This right is embodied in article 24 of the Political Constitution, which provides in this regard: "The following are the rights of citizens: to associate with one another to constitute political parties in accordance with the law and to join parties already constituted."

Accordingly, there are many political parties in El Salvador, to which many women belong, some of them being members of the governing bodies of the parties; there are also women's associations, which, though not strictly political parties, do indeed represent pressure groups in public opinion and do a great deal of work for the advancement of women.

Article 8 of the Convention

With regard to the provisions of article 8 of the Convention, there are no restrictions against women's occupying posts in which they represent the Government at the international level; thus El Salvador has many women in the foreign service and there are also women working as grade 7 officials in the Ministry of Foreign Affairs.

Some of the offices held by women are the following:

1. Legal Adviser;
2. Director for American Affairs;
3. Director for International Organization Affairs;
4. Director, Treaties Section;
5. Director of Finance, etc.

Article 9 of the Convention

In the Salvadorian constitutional system, a woman does not lose her nationality through marriage to an alien.

Under our legislation, marriage merely facilitates the acquisition of Salvadorian nationality by the alien spouse (article 13 (5) Cn).

Art. 13. "The following are Salvadorian nationals by naturalization:

5. Any alien man who, having two years' residence in the country, enters into marriage with a Salvadorian woman and any alien women who, subject to the same conditions, enters into marriage with a Salvadorian man, when they opt for Salvadorian nationality on marriage; and aliens who are married to Salvadorians, have two years' residence in the country and request naturalization before a competent authority."

With regard to the acquisition, change and retention of nationality, the law applies generally and without any distinction based on sex in respect of the enjoyment of these rights.

2. With regard to the nationality of the children, our legislation confers equal rights on the father and the mother by granting nationality on the basis of the jus sanguinis (article 12 (2) Cn).

Art. 12. "The following are Salvadorians by birth:

2. The children of Salvadorian fathers or mothers born abroad."

PART III

Article 10 of the Convention

The Government of El Salvador has declared that education is one of its fundamental aims and objectives; accordingly, article 198 of the Constitution provides that:

"All inhabitants of the Republic have the right and the duty to receive basic education that will enable them to play their part consciously and effectively as workers, parents and citizens. Basic education shall include primary education and shall be free of charge when dispensed by the State."

When the Constitution says "All inhabitants", it is referring generally to both men and women.

(a) As has been repeatedly pointed out in this report, El Salvador has in fact no discriminatory practices, particularly in the field of education.

(b) In our country, education is dispensed by private or public institutions; however, both types of institutions are compelled to follow the same syllabuses, which are established for the purpose by the Ministry of Education as an official institution. Article 196 of the Constitution provides that:

"The preservation, development and dissemination of culture is an obligation and a fundamental aim of the State."

Education is an essential function of the State, which will organize and set up such institutions and services as are necessary to ensure that, since the syllabuses are prepared by the State itself, and since education is one of the fundamental aims of the State, no kinds of discriminatory acts against women are conceivable within the educational system, because women enjoy the same level of education and access to local facilities and equipment in teaching centres.

(c) In our country, the majority of State schools as well as some private establishments are coeducational, while some are only for one sex. However, in any case, as has already been pointed out, they must all follow the same educational syllabuses, which are determined by the Ministry of Education as the competent institution.

(d) With regard to the award of scholarships, women enjoy the same opportunities, that is to say that no preference is given with regard to the necessary requirements because of the candidate's sex; however, in view of the special nature of our country or perhaps because of the concept of women's dependence in the social and family spheres that exists in Latin countries, or in other cases owing to the specific nature of the type of study, statistics show that more men than women take advantage of scholarships.

(e) Intensive literacy campaigns are being carried out in marginal zones, with the aim of giving the inhabitants of these zones the possibility of acquiring elementary education; in these campaigns, no type of distinction is made, but women participate less than men, owing to their own level and living conditions, since women are obliged to look after the home and the children.

(f) With regard to female student drop-out rates and the organization of programmes for girls and women who have left school prematurely, our country does not have a specific programme directed towards solving this type of problem. Nevertheless, our country now has an educational television system, which goes up to secondary school leaving level; though it is not exclusively directed towards women nor to solving this specific problem, it can in some measure help to solve it. Along the same lines, we have a "Modular University", which gives instruction by correspondence. By these programmes it is intended to alleviate the problems of those persons who, for one reason or another, cannot attend a teaching institution.

(g) Physical education and sports are compulsory at all State and private schools in El Salvador; accordingly, there are no limitations for girls apart from those resulting from the intrinsic nature of some sports, which make them unsuitable for women and girls.

(h) As has already been pointed out in this report, there are sections in the Office of the Attorney for the Poor that are responsible for counselling women in their work as mothers. Similarly, instruction on family planning is given by the Demographic Association, not only to women but also to men; the aim is to counsel and instruct them on birth control and the advantages of bringing into the world only wanted children.

Article 11 of the Convention

(a) Salvadorian legislation is progressive in labour matters. For instance, article 181 of the Constitution provides that:

"Work is a social function enjoying the protection of the State and is not considered as an article of commerce.

The State shall use all the resources at its disposal to provide employment for manual or intellectual workers and to give them and their families the economic conditions appropriate for a life consistent with human dignity."

By placing work in this category, the legislator confirms it as a fundamental human right.

(b) In labour matters, no distinction is made legally between men and women with regard to selection and opportunities for work; it could be said that this is the general rule. However, in actual practice such a distinction becomes necessary in the case of certain types of work, which are incompatible by their intrinsic nature with women's physical constitution. Thus, article 105 of the Labour Code provides that:

"The performance of dangerous and unhealthy work by persons under 18 and by women of any age is prohibited."

In this context, let us consider dangerous work:

Article 106. "Dangerous types of work are those that can cause death or immediate and grave physical injury to the worker. It is considered that the danger attached to such work may derive from its intrinsic nature, or the type of materials used, produced or released or from the type of residues generated by such materials, or from the handling of corrosive, inflammable or explosive substances, or from the storage of such materials in any form.

The following, for example, are considered to be dangerous types of work:

(a) The lubrication, cleaning, inspection or repair of machines or mechanisms while in operation;

(b) Any work using automatic, circular or band saws; shears, knives, cutters, hammers or other mechanical equipment whose operation requires special precautions and knowledge, except kitchen and butchers' utensils and tools and tools for similar work;

(c) Work underground or under water;

(d) Work using or producing explosive, detonating, unhealthy or toxic materials or inflammable substances; other similar types of work;

(e) Construction work of all kinds and related demolition, repair, maintenance and similar work;

(f) Work in mines and quarries;

(g) Work at sea, stowage of cargo, loading and unloading in docks; and

(h) Other types of work specified in laws and regulations on safety and hygiene, collective contracts or agreements, individual contracts and internal labour regulations.

Article 107. Work in bars, saloons, billiard halls and other similar establishments is considered to be dangerous work for persons under 18.

Article 108. Unhealthy types of work are those that, owing to the conditions in which they are performed or to their intrinsic nature, may harm the health of the workers; and those in which injury may be caused by the type of materials used, produced or released or by their solid, liquid or gaseous residues, such as:

(a) Those that entail the danger of poisoning by the handling of toxic substances or of materials from which they are derived;

(b) Any industrial operation in the course of which harmful gases or vapours or noxious fumes are generated;

(c) Any operation in which dangerous or noxious dust is generated;

(d) Other types of work specified in the laws and regulations on safety and hygiene, collective contracts or agreements, individual contracts and internal labour regulations."

(e) Neither our Political Constitution nor the Labour Code have any specific regulations with regard to the free choice of a vocation or employment, but there is a constitutional rule stating that:

Article 152. "No-one is obliged to do what the law does not prescribe or to abstain from doing what it does not prohibit."

From this provision, we can deduce that everyone in El Salvador is free to choose his own occupation or employment.

With regard to the principle of security of employment, women are among those who enjoy most protection under the law, since in the event of pregnancy they enjoy security of employment from the beginning of pregnancy up to the end of post-natal leave.

Article 113. Labour Code:

"As soon as pregnancy begins and until the end of post-natal leave, de facto dismissal or dismissal for previous express cause shall not lead to the termination of a female worker's contract, unless the cause of such dismissal predates the pregnancy; however, even in the latter case, dismissal shall not take effect until immediately after the end of the above-mentioned period of leave.

Women also enjoy equal wages with men and equal social benefits.

Our labour legislation regulates apprenticeship contracts but makes no distinction between men and women in this context. However, any person of either sex who is subject to an apprenticeship contract receives an allowance equivalent to wages under the social security system, as well as cash and social benefits, etc.; the Labour Code also covers training and retraining programmes and makes no distinction based on sex.

(e) The Political Constitution of El Salvador, in the chapter entitled "Work and social security", confirms the principle of equal wages in its article 182 (1), which provides on this point that:

"Work shall be regulated by a Labour Code, whose principal objective it shall be to harmonize relations between capital and labour; it shall be based on general principles conducive to improving the level of living of the workers, especially in the following respects:

1. In one and the same enterprise or establishment and under identical circumstances, equal remuneration for equal work must be paid to the workers, whatever their sex, race, creed or nationality."

As can be deduced from a reading of the previous paragraph, the Salvadorian system clearly embodies this principle of equal wages for men and women, so that any violation of this principle would be an offence against the constitutional system.

(f) A social security system operates in El Salvador, being constitutionally established in article 186:

"The social security system is a public service of a compulsory nature. The law regulates its scope and coverage and the form in which it must be implemented.

The employers, workers and the State shall share in the payment of the social security contributions.

The State and the employers shall be released from the obligations towards the workers imposed by the law to the extent that such obligations are covered by the social security system."

There is also a Social Security Law, article 3 of which provides in this context that:

"The compulsory social security system shall originally be applied to all workers in the service of an employer, whatever the type of contractual relationship and the form of remuneration. It may be extended in due course in favour of classes of workers who are not in the service of an employer."

As can be seen, when the social security system was set up constitutionally and was regulated by a law, no distinction was made between men and women.

The risks covered by the social security system are listed in article 2 of the Social Security Law.

Article 2. "The social security system shall give gradual coverage of the risks to which workers are exposed because of:

(a) Sickness, normal accidents;
(b) Industrial accidents, occupational diseases;
(c) Maternity;
(d) Invalidity;
(e) Old age;
(f) Death; and
(g) Involuntary unemployment.

Persons receiving a pension and the family members of insured persons and of pensioners who are financially dependent on the latter shall be entitled to benefits on grounds (a) and (c) on the occasions and conditions and in the form established by the regulations."

At the moment, the social security system in El Salvador covers all the above-mentioned cases except the last, i.e. involuntary unemployment, or dismissal without due cause.

Similarly, the social security sytem covers at the moment a man and his spouse or lifetime companion, so that it aims to ensure that the participant's wife has the right to receive medical assistance and other social security benefits.

(g) In this context, the legislator entitles women to a series of benefits in the event of maternity that are designed to protect women in this condition.

In the first place, the Political Constitution prohibits the performance of unhealthy or dangerous work by pregnant women (article 182 (10));

"The performance of unhealthy or dangerous work by persons under 18 and by women is prohibited; night work by persons under 18 is also prohibited. The law shall define dangerous or unhealthy work."

With particular reference to maternity, article 183 of the Constitution provides that:

"Working women shall be entitled to paid leave before and after confinement and to retention of employment."

It clearly follows from the above that the intention is to protect women, especially when they are pregnant, by permitting them security of employment and by giving them the right to pre- and post-natal leave and the right to receive remuneration equivalent to their wages during such leave.

It should be pointed out in this context that there is a dual system. In other words, there are two different systems for the treatment of maternity benefits, some women being covered under the social security system and some under the Labour Code. There is also a third system, solely for public servants, under which special leave is granted for maternity or childbirth, as provided by article 9 of the Law on Official Holidays, Annual Leave and Special Leave of Public Servants, which states on this point that:

"Special leave for childbirth is considered on the basis of the same rules as those for sick leave; however, for each childbirth, the leave granted may not exceed 90 days - one month before and two months after childbirth. Such leave must be granted irrespective of the actual date of the birth."

Greater benefits are granted under the social security system, in which the majority of private enterprises in our country participate. The provisions covering maternity in the Social Security Law are quoted below:

"Maternity benefits:

Article 59. In the event of maternity, the insured worker shall be entitled to the following benefits in the form and for the period established by the regulations:

(a) Medical, surgical, pharmaceutical, dental, hospital and laboratory services, to the extent that they are indispensable during pregnancy, confinement and the post-natal period;

(b) The benefits indicated in the first section of this chapter when sickness occurs as a result of maternity. If the insured woman dies, the surviving relatives shall be entitled to the aid established in article 66;

(c) The issue of a medical certificate for the purpose of the leave that must be granted to her according to the Labour Code (4);

(d) A cash allowance calculated according to article 48 of this law on condition that the insured woman does not perform any paid work during the period in which she receives the allowance. In no circumstances may a woman simultaneously receive both a sickness and a maternity allowance;

(e) Assistance during the lactation period in cash or in kind, when the mother is incapacitated, in the opinion of the medical officers of the Institute from feeding her child adequately; and

(f) A set of clothes and utensils for the baby, known as the "maternity layette". (2)."

Article 60. An insured man shall have the right that his wife or lifetime companion, if he is not married, shall receive the benefits established in subparagraphs (a), (b), (e) and (f) of the previous article. (2)."

The Labour Code also contains provisions on maternity benefits, which are quoted for information:

"Maternity benefits:

Article 309. The employer is obliged to grant a pregnant worker, as a rest period for maternity, twelve weeks of leave, six of which must be taken after confinement; and also to pay her in advance a benefit equal to 75 per cent of her basic wage during such leave.

Article 310. In order that a female worker may obtain the leave established in the previous article, it shall be sufficient for her to

submit to her employer a medical certificate made out on plain paper, in which the pregnancy is certified, indicating the probable term.

Article 311. In order that a female worker may be entitled to the cash benefit established in this Chapter, it shall be an indispensable requirement that she shall have worked for one and the same employer during the six months preceding the probable term; however, she shall in any case be entitled to the leave established in article 309.

Article 312. If after the expiry of the maternity leave the worker proves by producing a medical certificate that she is not in a fit condition to return to work, her contract shall continue to be suspended on the grounds specified in article 36 (4a) for the time necessary for her recovery, the employer being obliged to pay her sickness benefits and keep her post open for her."

2. (a) As was the practice earlier, pregnant women enjoy security of employment under social legislation, that is to say that they cannot be dismissed between the beginning of pregnancy and the end of post-natal leave. If a woman should be dismissed by her employer, the dismissal does not take effect and she is in any case entitled to institute appropriate proceedings.

Article 113.

"As soon as pregnancy begins and until the end of post-natal leave, the de facto dismissal or dismissal for previous express cause shall not lead to the termination of a female worker's contract unless the cause for such dismissal predates the pregnancy; however, even in the latter case, the dismissal shall not take effect until immediately after the end of the above-mentioned period of leave."

Marital status does not in fact represent a determining factor in giving employment, nor is any discrimination made on these grounds.

(b) With regard to this point, all relevant information has already been given in the course of this report.

Maternity leave has been established in El Salvador under article 309 of the Labour Code:

"The employer is obliged to grant a pregnant worker, as a rest period for maternity, twelve weeks of leave, six of which must be taken after confinement; and also to pay her in advance a benefit equal to 75 per cent of her basic wage during such leave."

However, in addition to such leave, she receives an advance allowance equivalent to 75 per cent of her wages, and, if she is covered by the social security system, the medical, surgical, pharmaceutical, dental, hospital and laboratory services necessary during pregnancy, confinement and the post-natal period, assistance during the lactation period in cash or in kind, when the mother is incapacitated, and what is known as the "maternity layette", which is a set of clothes and utensils for the baby.

The wife or the lifetime companion of an insured man also receives these benefits.

A woman who has had more than six months of actual service with one and the same employer enjoys these rights; even if she has not had six months of service, she receives maternity leave, but without the other social benefits indicated earlier.

(c) With regard to this subparagraph of the Convention, article 183 of the Political Constitution provides that:

"The laws shall regulate the obligation of employers to install and maintain nurseries and day-care facilities for workers' children."

However, in practice, this provision is only created in the Constitution because the nursery service is very deficient in our country, so that many women are restricted in the possibility of finding work that would enable them to improve their level of living and that of their families.

(d) This provision of the Convention is specially covered in article 110 of the Labour Code, which establishes that:

"Employers are prohibited from assigning pregnant women to work requiring considerable physical effort, or that is incompatible with pregnancy, after the fourth month of pregnancy."

Article 12 of the Convention

1. Our country is somewhat deficient in the matter of health care owing to the paucity of resources in relation to the size of the population to be covered by State aid; however, even in the face of such limitations, El Salvador has tried to overcome this situation gradually. For that reason, no discrimination based on sex was made among the beneficiaries of this service when State health care was introduced.

For a number of years it has been the practice that the wife or lifetime companion of a worker participating in the social security system

has been considered as being covered by this system for the purposes of the hospital service, which represents an advance in social security in our country, ensuring the greatest possible protection for women.

Also, public maternity hospitals operate in our country and give assistance free, like the family counselling and planning services; at the moment, a national campaign is being conducted on family planning in which the Salvadorian Demographic Association is trying to arouse among the population awareness of family responsibilities and the desirability of bringing into the world only wanted children.

2. As was indicated in the previous paragraph, the State has a number of maternity hospitals in which women are treated during pregnancy and confinement. In an effort to extend the coverage for the female population, the State authorities have recently opened a modern maternity hospital with the aim of improving the service.

Owing to cultural patterns in our country and particularly in rural areas, there is some reluctance on the part of rural women to attend hospital for treatment during confinement. In an attempt to find a solution to this problem, the Ministry of Public Health gives training courses for rural midwives, who assist rural women in their own homes during confinement. In these courses, an attempt is made to impart to these women certain techniques and the essential asepsis measures and they are provided with the basic instruments used.

Article 13 of the Convention

With regard to the right to family benefits, as has already been explained, these are workers' rights, so that women are entitled to them not because they are women but because of the labour relationship in question; however, owing to their special nature, women do enjoy special benefits, such as:

(a) Maternity leave and security of employment during pregnancy and post-natal leave.

(b) With regard to obtaining bank loans, mortgages and other forms of financial credit, there is no discrimination whatever against women, since, under the Salvadorian system, any person who meets the requirements prescribed by the law can obtain credit, mortgages, etc.

(c) Participation in recreational activities, sports and all aspects of cultural life: El Salvador has declared that education is one of its fundamental activities, and sport is understood as being part of education. As this is one of the fundamental activities of the State, there is no distinction whatever with regard to participation in such pursuits.

Article 14 of the Convention

In the rural areas of El Salvador there is indeed discrimination or an attitude of mind against women that has not yet been overcome, since their participation is reduced solely to household tasks and child care and it is a rare occurrence for them to be taken into account in the context of agrarian reform, economic opportunities, etc.

The provision of adequate housing, sanitation, electricity and water supply, transport and communications is an aim of the State at a general level, with the purpose of improving the welfare conditions of the rural population to the maximum possible extent.

However, in the specific area of women's affairs, the Ministry of Agriculture is carrying out a programme intended to help women in rural areas.

Article 15 of the Convention

1. In this context it has already been stated in this report that El Salvador, in its Political Constitution, establishes equality before the law without distinction on grounds of race, sex, nationality or religion (article 150 Cn).

2. In civil matters, women have equal legal capacity with men, as is confirmed by articles 1316, 1317 and 1318 of the Civil Code.

"Actions and declarations of intent:

Article 1316. The following are necessary requirements for the undertaking of obligations by one person to another:

1. That the person have legal capacity;

2. That the person consent to the action or declaration and that his consent be not vitiated;

3. That the purpose be licit;

4. That it have a licit cause.

A person's legal capacity consists in his being able to undertake an obligation on his own, without the instrumentality or authorization of another person.

Article 1317. All persons have legal capacity except those declared by the law to be incapable.

Article 1318. Lunatics, under-age children and deaf-mutes who cannot make themselves understood in writing have absolute legal incapacity.

Their actions give rise to no natural obligations and cannot be the subject of collateral guarantees.

Also, adult minors who have not obtained capacitation through age, and juridical persons; however, the incapacity of the former is not absolute since their actions are valid in the cases determined by the law. The latter are considered to be absolutely incapable in the sense that their actions shall have no validity whatever if performed in contravention of the rules adopted to govern them.

Apart from the above, there are other types of incapacity consisting in the prohibition that the law has imposed on certain persons against performing certain actions."

Similarly, women enjoy equality before the law in any matter whatever, as is shown by article 189, which provides that:

"The spouses may enter into contracts with one another and the wife does not need the authorization of her husband or the judge to conclude any type of contract or to appear in court."

Equality between men and women with regard to the right to freedom of movement and the freedom to choose their own residence and domicile: In this regard, the rule established in article 154 of the Constitution grants absolute liberty.

"Article 154. All persons are at liberty to enter, remain in and leave the territory of the Republic, subject to the limitations established by law.

No person can be obliged to change domicile or residence except by order of a judicial authority in the special cases and subject to the requirements indicated by the law.

No Salvadorian may be expatriated or refused entry into the territory of the Republic nor refused a passport for his return or other identity documents."

However, in civil matters, there is a restrictive rule applying to women. Article 183 of the Civil Code provides:

"Article 183. The husband is entitled to oblige his wife to live with him and to follow him to wherever he transfers his residence.

This right cannot be exercised through coercion, but the husband can refuse to maintain his wife if she refuses without just cause to live with him. The wife, for her part, has the right to be received by her husband in his home.

In cases covered by this article, the judge shall take summary action."

This is a relic of former legislation that has not yet been done away with.

Article 16 of the Convention

It can be said that there is equality between the spouses in matters relating to marriage.

(a) The requirements for entering into marriage are the same for men and women, except as regards age, which is understandable for reasons inherent in the biological development of the sexes.

(b) Under Salvadorian legislation, the free consent of the spouses is a requirement for the validity of the marriage, since marriages are null and void if entered into against the free consent of one of the spouses.

(c) There is not genuine equality with regard to the rights and responsibilities of the spouses, since article 182 of the Civil Code provides in this context that:

"The spouses are obliged to remain faithful to one another and to render each other succour and assistance in all circumstances of life.

The husband owes protection to his wife and the wife obedience to her husband."

Accordingly it can be said that though this rule is not discriminatory it does establish a distinction between the obligations of the spouses.

The discriminatory measures in relation with the dissolution of the marriage bond that are inherent in some grounds for divorce have already been indicated in the course of this report.

There is also discrimination in the case of remarriage, as provided by article 180 of the Civil Code, which states that:

"When a marriage has been dissolved or annulled, the woman, if she is pregnant, cannot remarry before confinement, or, if she displays no signs of pregnancy, before 300 days after the dissolution or declaration of nullity."

As the above rule indicates, limitations are imposed on women; while a man can remarry immediately after divorce, a woman must wait 300 days.

(d) In the context of the rights and responsibilities of parents towards their children, our legislation does establish differences with regard to the marital status of the parents.

When a child is conceived or born in wedlock, parental authority is exercised jointly by both parents, as provided in article 252.

"Parental authority is a set of rights that the law grants to the legitimate parents, acting jointly, or to one of them only in default of the other or, if appropriate, to unmarried mothers, over their unemancipated children."

Also, in default of the mother, the natural father who has recognized his child has parental authority.

Unemancipated children of any age are denominated children of the family, and the father or mother or mother, in relation to them, father or mother of the family.

When the law refers to the father of the family or simply to the father, it is to be understood that it is referring to the father or mother who exercises parental authority or to both, when they exercise it jointly, unless a separate reference is made to one or other of the parents.

(e) The right to plan a family has already been mentioned in this report and it has been indicated that it is a right of all Salvadorians.

(f) As has been indicated, the parents exercise parental authority over the children jointly, and similarly both men and women can be guardians and one of them can, in default of the other, nominate a guardian.

(g) The provisions of this subparagraph have already been covered in the context of the free choice of profession or occupation. El Salvador has no legislation with regard to names, because the wife has the option of using her husband's family name if she so wishes; in practice this occurs in the majority of cases but has no effect on marital status.

(h) Under Salvadorian legislation, the spouses can freely administer their property, since there has been a change in the former system of marital community of goods, under which the property was administered by the husband. Now, a wife can conclude contracts and administer and manage property without her husband's consent.

2. Though there is not a single instance of the conclusion of betrothal contracts in El Salvador, such contracts are indeed regulated in the Civil Code, which has established on this point in article 94:

"Article 94. Betrothals or promises of marriage mutually accepted represent private acts which the law subjects entirely to the honour and conscience of the individual and that give rise to no obligation whatever under civil law.

Such promises cannot be invoked either to bring about a marriage or to claim indemnification."

However, as can be seen from reading this article, it is nothing more than a natural obligation, which, if not fulfilled, cannot be enforced.

There is an age requirement for marriage, which our legislation fixes at 16 for males and 14 for females, provided that the parents' consent is obtained.

With regard to the registration of marriages, Salvadorian legislation provides as follows in article 316:

"Article 316. Registrations of marriages shall be entered in the appropriate volume and shall include:

1. The first name and family name, age and profession or occupation of each of the spouses;

2. The first names and family names of the parents, in the case of legitimacy, or of the mother, in the case of illegitimacy;

3. The first names and family names of the official who authenticated the marriage and of the witnesses who attended it;

4. The date on which the marriage ceremony was performed.

The mayor of the locality in question shall make the entry within eight days following the marriage, taking the data from the respective document, which must be sent to him not later than the third day by the official who performed the marriage ceremony, unless it was the mayor himself."

Therefore it is incumbent on both the persons entering into marriage and the official who performed the ceremony to make the registration indicated so that the marriage ceremony performed may be valid.